

Service Date: November 2, 1999

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application of)	UTILITY DIVISION
Grant Creek Water Works for Approval)	
of the Sale and Transfer of Assets and)	DOCKET NO. D99.9.219
Operating Responsibilities to Grant)	
Creek Water Users Association, Inc.)	ORDER NO. 6207

ORDER APPROVING SALE AND TRANSFER OF UTILITY ASSETS

BACKGROUND

1. On August 9, 1999, the Montana Public Service Commission (Commission) received a Complaint from Timothy D. Geiszler, Pro Se, a customer of Grant Creek Water Works, (Grant Creek), a public utility providing water service north of Missoula, Montana, against Jack L. Green, General Partner of Grant Creek Water Works, a Limited Partnership. The Complaint alleged generally that Grant Creek failed to provide adequate utility service and facilities, with numerous outages and failure to properly chlorinate as required by the Department of Environmental Quality after high readings of bacteria.

2. The Commission takes administrative notice that in its records there have been a number of complaints about the water service through the years. Many of the complaints related to the difficulty of contacting the general partner, who resided in Arizona, when there were water outages for some days at a time or when the water pressures were low. When the customers called the number on the billing statements, the call was answered by some kind of temporary nursing service. The Commission also takes administrative notice that the general partner had not complied for some years with the requirement of filing annual reports. The Commission itself could not reach the general partner; its records show that the last contact was made as a result of locating the general partner's address on the Internet.

3. On August 18, 1999, the Commission issued a Notice of Complaint to Jack L. Green, d/b/a Grant Creek Water Works. Docket No. D99.8.191. At least 10 homeowners and customers of Grant Creek joined in the Complaint against Grant Creek.

4. On September 23, 1999, Grant Creek Water Works and Grant Creek Water Users Association, Inc., executed an Application for Public Service Commission Approval of Asset Sale. For a

purchase price of \$40,000, Grant Creek agreed to transfer to the Association all of the public utility facilities, including the distribution system, pipes, pumps, wells, buildings, reservoir, tools and spare parts related to the water system, the utility lot in Grantland 13, water rights to the wells serving the system, and the designs and specifications for the chlorination facility. Grant Creek agreed to execute all necessary quit claim deeds and assignments and transfers of rights, titles and interests in easements, licenses and leases of real property related to the water distribution system, as well as the water rights. Grant Creek also agreed to provide lien releases from Missoula County for all personal and real property taxes assessed to Jack L. Green, Grant Creek Water Works, Western Montana Land Company, Grant Creek Ranch Trust, Grant Creek Associates, Limited, and the assets sold under the agreement. Property taxes accrued but not yet payable or paid would be prorated at closing. At closing, Grant Creek Water Works agreed to provide the Association a lien waiver from its law firm for all services related to the water distribution system or to the limited partnership through the date of closing, as well as a Construction Lien Waiver and a receipt showing full payment from its engineering firm for the chlorination designs.

5. The Association agreed to cause Timothy D. Geiszler to dismiss the pending Complaint against Grant Creek Water Works before the Commission, Docket No. D.99.8.191.

6. At a duly noticed work session on September 30, 1999, the Commission granted the request for approval of transfer of the assets.

7. The Commission takes administrative notice that on October 21, 1999, Timothy D. Geiszler filed a Motion to Dismiss the Complaint filed in Docket No. D99.8.191. As part of issuing this order approving the sale, the Commission will dismiss the Complaint.

FINDINGS OF FACT AND DISCUSSION

8. The Commission has reviewed the agreements between the Seller Jack L. Green, General Partner, Grant Creek Water Works, and the Buyer, Grant Creek Water Works Association. The Commission finds that the Association is financially fit and capable, as well as desirous, of running its own water system. The Association is prepared to get the chlorination facilities installed and operational, as required by the Department of Environmental Quality.

9. The Commission finds that the Association will be more responsive to meeting its needs for water service than the regulated public utility with an owner in Arizona. The members of the Association have the wherewithal, both financially and professionally, to manage their water sys-

tem.

10. The Commission further finds that the sale of the utility assets and the transfer of the operating responsibilities will not by itself result in increased rates. When the Association must incur further expense, it will follow its bylaws to obtain approval for the expense and any rate increases, if necessary. Therefore, the Commission finds that the sale and transfer of the public utility assets and operating responsibilities of the water utility to the water users association will be in the public interest.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission regulates the rates and services of public utilities pursuant to Title 69, Chapter 3, Montana Code Annotated (MCA). . 69-3-102, MCA. Grant Creek Water Works is a public utility subject to the jurisdiction of the Commission. § 69-3-101, MCA.

3. The Commission has the power to prescribe rules of procedure and to do all things necessary and convenient in exercising its powers. § 69-3-103, MCA.

4. Pursuant to its general authority in regulating public utilities, the Commission has properly exercised authority over Grant Creek Water Works' sale of its public utility property to Grant Creek Water Users Association, Inc.

ORDER

WHEREFORE, THE COMMISSION ISSUES THE FOLLOWING ORDER:

The Commission approves the sale and transfer of the public utility facilities of Grant Creek Water Works, Jack L. Green, II, General Partner, to Grant Creek Water Users Association. As a water users association, Grant Creek Water Users Association shall assume all the responsibilities of operating the water system and facilities, including the establishment of appropriate rates and rules of service pursuant to its bylaws and compliance with all applicable legal requirements. The Commission will cease to have regulatory authority over the water system, on completion of the transfer.

DONE AND DATED this 30th day of September, 1999 by a vote of 4 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: You may be entitled to judicial review in this matter. Judicial review may be obtained by filing a petition for review within thirty (30) days of the service of this order. Section 2-4-702, MCA.